

Appl. No. 10/721,125  
Amdt. dated April 6, 2007  
Reply to Office action of Dec. 12, 2006

Patent  
Docket No. UC-3

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### REMARKS/ARGUMENTS

#### **Office Action Summary**

Claims 1- 32 are pending in the application. Claim 18 stands rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject invention. Claims 1-6 and 8-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US published patent application number US2004/0235521 ("Pradhan et al."). Claims 9, 19-25 and 27-32 stand rejected under 35 U.S.C. § 103(a) as being anticipated under Pradhan et al. in view of US published patent application number US2002/0147648 ("Fadden et al."). Claims 7 and 26 stand rejected under 35 U.S.C. § 103(a) as being anticipated under Pradhan et al. in view of Fadden et al. and in further view of US published patent application number US2005/0107120 ("Yuch"). Applicant is unaware of any other rejections or objections pending in the application.

#### **Amendments to the Claims**

Claim 18 has been canceled. Independent apparatus Claim 1 and method Claim 19 have been amended to add limitations directed to the periodic transmission of a link request radio signal, the response thereto by sending an in range radio signal, and the subsequent automatic transmission of a digital audio file.

#### **Rejections of Claims under 35 U.S.C. § 112**

The rejection of Claim 18 has been obviated by cancellation of that claims.

#### **Rejections of Claims 1-6 and 8-17 under 35 U.S.C. § 102(e)**

The rejections have been obviated by incorporating limitations in Claim 1 directed to the periodic transmission of a link request radio signal. As noted by the Examiner in the Office action, Pradhan et al. does not teach or suggest these limitations.

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### **Rejections of Claims 19-25 and 27-32 under 35 U.S.C. § 103(a)**

Applicant has amended independent method claim 19 to include limitations clarifying that the first device periodically transmits a link request radio signal, that the second devices responds by transmitting a responsive in range radio signal, and that the first device automatically recalls and transmits a digital audio file by wireless transmission means upon receipt of the in range signal.

The Examiner relied upon paragraphs [0058] through [0063] of the Fadden et al. reference for a teaching of a periodic request to establish a communication link. However, Fadden et al. fails to teach or suggest the claimed responsive in range radio transmission and the automatic transfer of a digital audio file in response thereto. In fact, both Fadden et al. and Pradhan et al. include teaching directed to transactional and security measures to greatly control transfer of product and information. An automatic digital audio file transfer response to an in-range response would be contrary to these teachings. Accordingly, it is clear that both references teach away from the presently claimed invention. Thus, it is applicant's position that the rejection under §103 should be withdrawn and the presently amended claims reconsidered in light of the foregoing.

### **Dependent Claims**

Since all of the dependent claims depend from either independent Claim 1 or independent Claim 19, which are both now in condition for allowance, it is well settled law that each of the dependent claims are also in condition for allowance. Such action by the Examiner is courteously solicited.

### **Conclusion**

The foregoing is submitted as a full and complete response to the Office Action mailed December 12, 2006. The Applicant believes that the same places the present application in condition for allowance. Reconsideration by the Examiner and allowance of the claimed invention is hereby courteously solicited.

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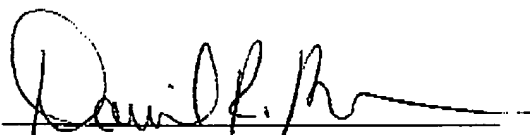
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Since the total number of claims in the Application has been reduced, it is Applicant's belief that no other fees, other than the extension for time fee, are presently due in the application. In the event that the Examiner determines otherwise, the Commissioner is hereby authorized to charge such additional fees, excluding the Issue Fee, to Daniel R. Brown Deposit Account No. 501507.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By: 

Daniel R. Brown  
Reg. No. 37,787  
Tel.: 817-431-1799  
57 Stagecoach Road  
Fort Worth, TX 76248  
e-mail: dan@danbrownlaw.com